

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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MARK ROGOWSKI and NANCY ROGOWSKI,	:	Case No.: 08 Civ. 0517 (KMK)
	:	
Plaintiffs,	:	
	:	
-against-	:	<i>ANSWER TO FIRST AMENDED</i>
	:	<i>COMPLAINT WITH CROSS-CLAIM</i>
JEFFREY FEAGLES, MICHAEL SWEETON,	:	
THOMAS SHUBACK, TSKS, LLC and	:	
THE TOWN OF WARWICK,	:	
	:	
Defendants.	:	
	:	

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Defendants THOMAS SHUBACK and TSKS, LLC, by their attorneys, Norton & Christensen, as and for their answer to Plaintiffs' First Amended Complaint, allege as follows:

1. Deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations stated or contained in Paragraphs 1, 2, 3, 8, 16, 20, 21, 26, 27 and 29.

2. With respect to the allegations stated or contained in Paragraph 4, deny that Defendant Thomas Shuback ("Shuback") resides at 229 Mt. Eve Road and admit the balance of the allegations stated therein.

3. With respect to the allegations stated or contained in Paragraph 5, deny that Defendant Shuback has a controlling interest in Defendant TSKS, LLC ("TSKS") and admit the balance of the allegations stated therein.

4. Admit the allegations stated or contained in Paragraphs 6 and 12.

5. Allege that Defendants are not required to plead with respect to Paragraph 7 since it does not set forth any circumstances and in the event a responsive pleading is required, Defendants state that although Plaintiffs seek compensatory and punitive damages, they are not entitled to any damages from Defendants Shuback or TSKS.

6. Deny each and every allegation stated or contained in Paragraph 9, 19, 22, 23, 24, 25, and 28.

7. Deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations stated or contained in Paragraph 13 except deny that Defendant Shuback arrived at Plaintiff's residence or refused Plaintiff's request for return of any dirt lying on or about Mt. Eve Road and further deny that Plaintiff made any such demand upon Defendant Shuback.

8. Deny each and every allegation stated or contained in Paragraph 14 except admit that the Town caused the dirt to be transported to the property of TSKS and that Defendant Shuback is the son of Town Board member Micky Shuback.

9. With respect to the allegations stated or contained in Paragraph 15, deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations regarding the other defendants' knowledge, admit that for years preceding April 2007, Defendants TSKS and Shuback have permitted others to dump materials on TSKS's property in an area just off the

highway and that some time in the future, Defendants TSKS and Shuback intend to develop the property and deny the balance of the allegations set forth in Paragraph 15.

10. Deny the allegations of Paragraph 17 and further allege that Defendant Shuback and TSKS never took possession of the dirt removed from Mt. Eve Road except to the extent that Defendants did not object to the Town's placement of the dirt on TSKS's property.

11. Deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations stated or contained in Paragraph 18 except deny that Defendants TSKS or Shuback transported or removed any dirt or debris which had sluffed onto Mt. Eve Road, and deny the last two sentences of the allegations set forth in Paragraph 18.

AS AND FOR ITS CROSS-CLAIM

9. In the event Defendants Shuback and TSKS are found liable for any damages to the Plaintiffs, these Defendants are entitled to indemnity or contribution from the other Defendants.

WHEREFORE, Defendants Shuback and TSKS respectfully demand judgment:

1. Dismissing the First Amended Complaint and awarding to these Defendants their attorney's fees and the costs and disbursements of this action;

2. In the event Defendants Shuback or TSKS are found liable to Plaintiffs, then in that event, contribution or indemnity from the other defendants; and

3. Such other and further relief as to the Court seems just.

Dated: July 1, 2008  
Goshen, New York

Yours, etc.,

NORTON & CHRISTENSEN

By: /s/ Harold M. Pressberg  
Harold M. Pressberg (HP8101)  
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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2008, a copy of the Answer to First Amended Complaint with Cross-Claim was filed electronically on behalf of Defendants Thomas Shuback and TSKS, LLC. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Harold M. Pressberg  
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